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Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

MAR 29 2022

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UNITED STATES DISTRICT COURT

for the

CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

Northern District of California

SF/Oakland Division

KAW

James Hellard

Case No.

CV22

2001

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

CITY OF SAN RAFAEL,

LYNN MURPHY, CARL HUBER

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) Yes No

Violation of 42 USC 1983 42 USC 1985 18 USC 2331

Battery, Conversion, Trespass to chattel

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Address

James Hellard
PO Box 150405
San Rafael CA 94901

City

State

Zip Code

County

Marin

Telephone Number

628-888-9073

E-Mail Address

James Hellard @ yahoo.com**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

City of San RafaelJob or Title (*if known*)Municipal Corporation

Address

1400 Fifth Street

County

San Rafael CA 94901

Telephone Number

City

State

Zip Code

E-Mail Address (*if known*)Marin Individual capacity Official capacity

Defendant No. 2

Name

Lynn MurphyJob or Title (*if known*)Homeless Liaison Officer

Address

1400 Fifth Street

County

San Rafael CA 94901

Telephone Number

City

State

Zip Code

E-Mail Address (*if known*)Marin Individual capacity Official capacity

Defendant No. 3

Name
 Job or Title (*if known*)
 Address
 County
 Telephone Number
 E-Mail Address (*if known*)

Carl Huber
San Rafael Police Sergeant
1400 fifth street
San Rafael CA 94901

City State Zip Code

Marin

Individual capacity Official capacity

California Department of Transportation
CAL TRANS

State Agency, owner of encampment
111 Grand AVE
OAKLAND CA 94612

City State Zip Code

Alameda

Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

Federal officials (a *Bivens* claim)
 State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4th amendment right to bodily integrity and protection from unlawful searches and seizures.

8th Amendment Cruel and Unusual Punishment

5th Amendment Due Process Provisions
14th Amendment Due Process Provisions

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

They are acting under Municipal ordinances
that criminalize Homelessness.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

San Rafael Highway underpass.

Francisco Blvd and Yacht Club Drive

B. What date and approximate time did the events giving rise to your claim(s) occur?

within the last two years. (During Covid-19)

C. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

City of San Rafael stole the car I was living in during the pandemic for registration issues forcing me to be exposed to Covid-19 and into dangerous living on the streets.

They are now forcing me to live underneath the 101 Highway in their unsafe and unsanitary city operated encampment.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Permanent hearing loss from constant exposure
to Freeway Noise in excess of 90 decibels

Respiratory illness from exposure to Freeway
exhaust, and other physical injury.

Loss of my vehicle and property

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

That I ^{have} easier needs met while homeless. To
stop them from forcing us into this dangerous camp.

Monetary relief for physical, emotional, and damages
and property loss.
